

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

KANUSZEWSKI, et al.

Plaintiffs,

Case. No. 18-cv-10472

v.

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

MICHIGAN DEPARTMENT OF HEALTH
AND HUMAN SERVICES, et al.

Defendants.

/

**ORDER DENYING MOTION TO STRIKE AND GRANTING MOTION FOR AN
EXTENSION**

Plaintiffs moves to strike Defendants' motion to dismiss because it references materials outside the pleadings and attaches exhibits. ECF No. 23.

Federal Rule of Civil Procedure 12(f) permits the court to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." A motion to dismiss is not a pleading. *See Fed. R. Civ. Pro. 7(a)*. Therefore, the motion will be denied. *Rhea v. Dollar Tree Stores, Inc.*, 395 F. Supp. 2d 696, 702 (W.D. Tenn. 2005) (finding Rule 12(f) inapplicable to exhibits attached to a memorandum in support of a motion to dismiss and denying motion to strike). If Plaintiffs wish to litigate the propriety of the Defendants' exhibits or the references made in Defendants' motion, the proper vehicle for this is a response brief.

Pursuant to Federal Rule of Civil Procedure 6(b), Plaintiffs' response brief deadline will be extended to 21 days from the date of this order.

Accordingly, it is **ORDERED** that the motion to strike (ECF No. 23) is **DENIED**.

It is further **ORDERED** that motion for an extension, ECF No. 24, is **GRANTED**, and Plaintiffs' deadline to file a response to the motion to dismiss is **EXTENDED** until May 16, 2018.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 25, 2018

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 25, 2018.

s/Kelly Winslow
KELLY WINSLOW, Case Manager